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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/897,730	07/03/2001	Takashi Yasujima	49275-061	8172

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Washington, DC 20005-3096

EXAMINER

FOREMAN, JONATHAN M

ART UNIT	PAPER NUMBER
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3736

DATE MAILED: 07/17/2003

16

Please find below and/or attached an Office communication concerning this application or proceeding.

# Office Action Summary

Application No.

09/897,730

Applicant(s)

YASUJIMA ET AL.

Examiner

Jonathan ML Foreman

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☒ Responsive to communication(s) filed on 01 July 2003.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 1-10 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-10 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on \_\_\_\_\_ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

## Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

## Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) \_\_\_\_\_
- 4) ☐ Interview Summary (PTO-413) Paper No(s). \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_

## DETAILED ACTION

### *Claim Rejections - 35 USC § 102*

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

2. Claims 1 – 4 are rejected under 35 U.S.C. 102(e) as being anticipated by U.S. Patent No. 6,256,532 to Cha.

In reference to claim 1, Cha discloses a bioelectrical impedance measuring apparatus (Figure 3a) comprising: a housing, a plurality of rod-like electrode members (Col. 4, lines 54 – 55) having a plurality of electrodes (1, 2, 3, 4) disposed in an upper part of said housing and having a length allowing persons of differing heights to maintain the same posture when grasping the electrode members (Col. 5, lines 23 – 25), a display device (15) having the capability of an operator panel lies between the electrode members (Figure 3a). The apparatus disclosed by Cha also comprises a weighing device (11; Col. 6, lines 8 – 10) in the lower part of the housing. The housing accommodates: a current supplying device, a voltage measuring device and an arithmetic means for calculating a bioelectrical impedance value from the supplied current value and the measured voltage values (Col. 4, line 60 – Col. 5, line 8; Col. 5, lines 33 – 39).

In reference to claim 2, Cha discloses a bioelectrical impedance measuring apparatus wherein the electrode members are located at both side edges of the housing (Figure 3a).

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In reference to claims 3 and 4, Cha shows the electrode members (1, 3) being in the form of annular horizontal rods (Figure 3a).

3. Claims 1 and 2 rejected under 35 U.S.C. 102(e) as being anticipated by U.S. Patent No. 6,551,257 to Sunako.

The applied reference has a common Assignee with the instant application. Based upon the earlier effective U.S. filing date of the reference, it constitutes prior art under 35 U.S.C. 102(e). This rejection under 35 U.S.C. 102(e) might be overcome either by a showing under 37 CFR 1.132 that any invention disclosed but not claimed in the reference was derived from the inventor of this application and is thus not the invention "by another," or by an appropriate showing under 37 CFR 1.131.

In reference to claim 1, Sunako discloses a bioelectrical impedance measuring apparatus (Figure 5) comprising: a housing, a plurality of rod-like electrode members (Col. 3, lines 4 – 10) having a plurality of electrodes (Col. 4, lines 44 - 48) disposed in an upper part of said housing. Because of the ability of the electrodes to be detached, persons of differing heights maintain the same posture when grasping the electrode members (Figure 5). Sunako discloses a display device (8) having the capability of an operator panel (Col. 4, lines 25 – 34) lies between the electrode members (Figure 1). The apparatus disclosed by Sunako also comprises a weighing device (Col. 3, line 67 – Col. 4, line 4) in the lower part of the housing. The housing accommodates: a current supplying device, a voltage measuring device and an arithmetic means for calculating a bioelectrical impedance value from the supplied current value and the measured voltage values (Col. 5, line 54 – Col. 6, line 22).

In reference to claim 2, Sunako discloses a bioelectrical impedance measuring apparatus wherein the electrode members are located at both side edges of the housing (Figure 1).

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*Claim Rejections - 35 USC § 103*

7. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

8. Claim 8 is rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent No. 6,256,532 to Cha in view of U.S. Patent No. 6,280,396 to Clark.

In reference to claim 8, Cha discloses a bioelectrical impedance measuring apparatus (Figure 3a) comprising: a housing, a plurality of rod-like electrode members (Col. 4, lines 54 – 55) having a plurality of electrodes (1, 2, 3, 4) disposed in an upper part of said housing and having a length allowing persons of differing heights to maintain the same posture when grasping the electrode members (Col. 5, lines 23 – 25), a display device (15) having the capability of an operator panel lies between the electrode members (Figure 3a). The apparatus disclosed by Cha also comprises a weighing device (11; Col. 6, lines 8 – 10) in the lower part of the housing. The housing accommodates: a current supplying device, a voltage measuring device and an arithmetic means for calculating a bioelectrical impedance value from the supplied current value and the measured voltage values (Col. 4, line 60 – Col. 5, line 8; Col. 5, lines 33 – 39). However, Cha fails to disclose a modem or the display device being capable of displaying information acquired over an Internet accessed through the modem. Clark teaches a bioelectrical impedance measuring apparatus that has a modem, and a display device for displaying information that is acquired over an Internet accessed through the modem (Col. 8, lines 9 – 18). It would have been obvious to one having ordinary skill in the art at the time the invention was made to modify the device as disclosed by Cha to include a

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modem and a display for displaying information acquired over an Internet as taught by Cha in order to charge a fee for use of the device (Col. 8, lines 9 – 18).

8. Claim 5 is rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent No. 6,256,532 to Cha in view of U.S. Patent No. 6,478,736 to Mault.

In reference to claim 5, Cha discloses a bioelectrical impedance measuring apparatus comprising a display, but does not teach displaying a diet or medicine that is selected based on a percent body fat from the bioelectrical impedance value. However, Mault discloses a bioelectrical impedance measuring apparatus comprising a display capable of displaying a diet or medicine that is selected based on a percent body fat from the bioelectrical impedance value (Col. 10, lines 5 – 51). It would have been obvious to one having ordinary skill in the art at the time the invention was made to modify the display as disclosed by Cha to have the capabilities of displaying a diet or medicine as taught by Mault in order to provide the user feedback in terms of foods to avoid.

8. Claim 9 is rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent No. 6,256,532 to Cha in view of U.S. Patent No. 6,478,736 to Mault.

In reference to claim 9, Mault teaches the device being accessible at different locations (Col. 12, lines 66 – 67) and displaying information related to exercise and fitness (Col. 11, lines 36 – 57) based on a percent body fat from the bioelectrical impedance value. It would have been obvious to one having ordinary skill in the art at the time the invention was made to include information introducing a sporting or esthetic club, in order to provide the user with a location for performing the exercise program designed for the user.

9. Claims 6, 7 and 10 are rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent No. 6,256,532 to Cha in view of U.S. Patent No. 6,478,736 to Mault as applied to claim 5 above, and further in view of U.S. 6,370,513 to Kolawa et al.

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In reference to claims 6, 7 and 10, Kolawa et al. discloses an apparatus comprising a modem, being located in a store (Col. 12, lines 31 – 34), displaying inventories of the diet or medicine in another franchised store acquired over an Internet accessed through the modem. The apparatus displays a location of the diet or medicine, a price, and an inventory thereof (Col. 13, lines 21 – 39). Kolawa et al. further discloses that information displayed on the device can be created with the help of a dietician (Col. 15, lines 43 – 44). It would have been obvious to one having ordinary skill in the art to combine the database and item locating capabilities of the apparatus as taught by Kolawa et al. to the apparatus as disclosed by Clark in view of Mault in order to further improve the capabilities of the device.

### ***Response to Arguments***

4. Applicant's arguments with respect to the claims have been considered but are moot in view of the new ground(s) of rejection.

### ***Conclusion***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jonathan ML Foreman whose telephone number is (703)-305-5390. The examiner can normally be reached on Monday - Friday 8:00 am - 4:30 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Max F Hindenburg can be reached on (703)308-3130. The fax phone numbers for the organization where this application or proceeding is assigned are (703)-308-0758 for regular communications and (703)-308-0758 for After Final communications.


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Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703)-308-0858.



JMLF

July 14, 2003



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